

## **REMARKS**

This is intended to be a complete response to the Office Action mailed April 10, 2003 in which claims 1, 2, 4-10, 12-24, 31-33, 35 and 36 were rejected. Claims 1, 12, 21, 31 and 35 have been amended herein.

### **First Rejection Under § 103(a)**

In the Office Action, the Examiner rejected Applicant's claims 1, 4-10, 31, and 33 under 35 U.S.C. § 103(a) over Olney et al. (U.S. Patent No. 4, 098,177) in view of Adeboi et al. (U.S. Patent No. 4,382,861). Applicant respectfully traverses the rejection.

In the rejection it was stated:

"As to Claim 1, Olney et al. disclose a preformed sleeve for covering a pot (Figs. 2 and 3) having an upper end, lower end and outer peripheral surface comprising a base portion having an upper end (region around leadline of 112 in Fig. 3) and closed lower end (region around leadline 26a of Fig. 3; 108 of Fig.2); a skirt portion (region above leadline of 112 in Fig. 3) extending from the upper end of the base; and a plurality of unconnected, vertically oriented, accordion-like, expandable folds (114 of Figs. 2 and 3) in the base wherein when a pot is in the sleeve the folds expand so that the base substantially covers and surrounds the outer peripheral surface of the pot. Not disclosed is the base portion initially constructed to have a flat condition having a flat condition prior to being opened for receiving a pot and having a tapered shape when in the flat condition. Adeboi et al., however, discloses a preformed sleeve with base portion initially constructed to have a flat condition (shown in Fig. 2) having a flat condition prior to being opened (defined as being formed into a sleeve/filter) for receiving a pot and having a tapered shape when in the flat condition (shown in Fig. 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Olney

et al. by constructing it in a flattened, tapered condition as disclosed by Adeboi et al. so as to have a sleeve that is simple and inexpensive to manufacture (see Adeboi et al. at col. 3 lines 9-11) as well as efficient to transport in bulk."

Applicant respectfully traverses the rejection of pending claims 1, 4-10, 31 and 33 for the following reasons.

The present invention, as recited in independent claim 1 and the claims depending therefrom, is directed to a preformed sleeve for covering a pot. The preformed sleeve has a base portion having an upper end, and a closed lower end. The preformed sleeve is initially constructed to have a flat condition and an inner retaining space therein prior to being opened for receiving the pot into the inner retaining space therein. In the flat condition the sleeve is tapered and has a tubular shape. The preformed sleeve of claim 1 also has a skirt portion extending from the upper end of the base portion and a plurality of substantially unconnected, vertically oriented, expandable folds in the base portion. When the pot is disposed within the inner retaining space of the sleeve, the expandable folds in the sleeve expand to cause the base portion to cover and surround the outer peripheral surface of the pot.

The present invention as recited in claims 21, 31 and 35 are directed to the use of a sleeve such as the sleeve of claim 1 for covering a pot.

Olney et al. discloses an open filter cup for a percolator that is formed by the process of feeding a plurality of single sheets or webs of filter paper by roller means into a forming die 22 which is operated by the ram press 24. In

the forming die the web 12 is cut and shaped into nested cups 26. (Col. 2, lines 65-69, Col. 3, lines 1-3). The filter cup has an annular bottom 108 with an axial opening 110 and upstanding sidewalls 112. The upstanding sidewalls 112 are provided with a plurality of flutes 114 about the periphery thereof. (Col. 4, lines 39-44). Olney et al. do not teach or suggest constructing the filter to have an initially flat condition having a tubular shape.

In the rejection it is stated that it would be obvious to a person of ordinary skill in the art to modify Olney et al. with the teachings of the Adeboi reference to form a cup having an initially flattened shape.

Applicant respectfully traverses. Adeboi et al. teach a coffee filter which has an initially flattened condition (Fig. 2) and is formed into a cup for placement into a support element for use. The filter of Adeboi et al., while having a flat condition, does not have an inner retaining space or a tubular shape when in the flattened condition and does not teach such a device. If the cup of Olney et al. was modified by the teachings of Adeboi et al., the cup of Olney et al. would merely be cut along its sides and flattened. It would not have an inner retaining space and a tubular shape in the flattened condition as required by the claims as pending herein.

Independent claims 1, 12, 21, 31 and 35 all indicate that the preformed tubular sleeve has a tubular shape and an inner retaining space in the flattened condition, and that the sleeve is initially constructed to have a flattened

condition. Olney et al. disclose that the nested cups are in a non-flat, open position upon formation (FIG. 3, FIG. 6). The forming die presses the flat web into a filter cup having upstanding sidewalls (Col. 4, line 41). The web is flat before it is formed into a filter cup, however, once formed, the filter cup is open and freestanding, not flat.

No modification of Olney et al. by Adeboi et al. can arrive at the claims as pending herein.

Applicant therefore respectfully requests, for the reasons set forth above, that the Examiner reconsider and withdraw the rejection of claims 1, 4-10, 31, and 33 under 35 U.S.C. § 103(a).

#### Second Rejection Under § 103(a)

In the Office Action, the Examiner rejected Applicant's claims 1, 4-7, 10, 21, 23, 24, 31, 33, and 35 under 35 U.S.C. § 103(a) over Weder et al. (U.S. Patent No. 5,314,398) in view of White (4,608,283).

In the rejection it was stated:

"As to Claim 1, Weder et al. (398) disclose a preformed sleeve for covering a pot (Figs. 1-3) having an upper end, lower end, and outer peripheral surface comprising a base portion having an upper end (16 of Fig. 1) and closed lower end (18 of Fig. 1); a skirt portion (14 of Fig. 1) extending from the upper end of the base; and a plurality of unconnected, vertically oriented, accordion-like, expandable folds (30a-30q of Fig. 2; col. 3 lines 30-35) in the base wherein when a pot is in the sleeve the folds expand so that the base substantially covers and surrounds the outer peripheral surface of the pot; the sleeve would have a tapered shape when

flat (inherent in Fig. 1 when flattened on the side). Not disclosed is the base portion initially constructed to have a flat condition and having the flat condition prior to being opened for receiving the pot. White, however, discloses preformed sleeve (Figs. 1-8) constructed to have a flat condition (Fig. 1; col. 1 lines 23-26) and having the flat condition prior to being opened for receiving the pot (inherent in Figs. 1 and 2 and col. 1 lines 23-26). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of Weder ('398) by constructing to have a flat condition and having the flat condition prior to being opened for receiving the pot as disclosed by White so as to increase the ease of storage, shipment, display, and using a minimum of space (see White at col. 1 lines 23-26)."

Applicant respectfully traverses the rejection.

Weder et al. '398 is directed to a preformed flower pot or flower pot cover having a base and a skirt. The base has a plurality of overlapping folds which extend at various angles and which have different and various lengths. (Col. 1, lines 55-69 and Col. 2, line 1). The flower pot or flower pot cover is formed by disposing a sheet of material between a male and female mold (Col. 2, lines 11-17). The cover of Weder '398 is initially formed in an open, three dimensional condition.

Weder et al. '398 fails to teach the element of that the sleeve is initially having a tubular shape and inner retaining space when flat.

In the rejection it is stated that the White reference teaches forming a bag having an initially flattened condition and that it would be obvious to modify Weder '398 with the teachings of White to form a cover as presently claimed. Applicant respectfully traverses the rejection on the basis that Weder '398 could

not be modified by White to arrive at the present invention, regardless of the teachings of White or any other flat bag in the cited art.

The cover 10 of Weder '398 is formed from a flat sheet of material which is pressed between a male and female mold to form a plurality of connected and unconnected overlapping folds 22. The overlapping folds 22 are connected by an adhesive or by heat sealing (Col. 1, line 65 - Col. 2, line 19). The overlapping folds 22 hold the cover 10 in its preformed open shape (Fig. 1). Further, the overlapping folds 22 of the cover 10 extend at various angles and have different lengths.

The cover 10 of Weder '398 comprises segments having overlapping folds 22 which are unconnected (see segments 30a, 30c, 30e, 30g, 30i, 30k, 30m, and 30p) and segments having overlapping folds which are connected (see segments 30b, 30d, 30f, 30h, 30j, 30l, 30n and 30q). Since the cover 10 is produced to have at least some overlapping folds 22 which are connected to form segments 30b, 30d, 30f, 30h, 30j, 30l, 30n and 30q, the only way this can be done is to form the cover 10 from a sheet pressed between two molds, wherein the cover 10 is initially formed in an open condition.

The cover 10 of Weder '398 cannot be modified to be formed in an initially flattened condition because the unconnected and connected overlapping folds could not be produced in that manner. Modification of Weder '398 by Adeboi therefore could not lead to the present invention.

Therefore, Applicant respectfully submits that the Examiner reconsider and withdraw the rejection of claims 1, 3-7, 10, 21, 23, 24 31, 33, and 35 under 35 U.S.C. § 103(a) over Weder '398 in view of Adeboi.

**Applicant's Response to Examiner's  
Statement Regarding Priority of the Present Application**

In the Office Action, the Examiner stated that the priority of the present application extends no farther than to U.S. Patent Number 6,151,830 (filed 22 April 1998). However, Applicant respectfully traverses and submits that both U.S. Patent No. 5,625,979 and U.S. 5,749,171, to which the present application claims benefit, include disclosure which teach or show multiple examples of flat sleeves with vertical, unconnected, expandable folds. See for example Figures 21, 23, 25, 26, 27, 29, 31, and 34 of 5,625,979. Examiner states that U.S. 5,749,171, does not disclose a sleeve with vertical oriented folds. However, this is incorrect because U.S. 5,749,171 in Col. 5, lines 15-18, incorporates U.S. Serial No. 08/237,078 by reference in its entirety into the disclosure thereof. Serial No. 08/237,078 matured into 5,625,979. Therefore all of the disclosure of 5,625,979 is included in 5,749,171, thereby maintaining an unbroken chain of disclosure, contrary to examiner's assertion on page 13, lines 10-15 of the official action mailed April 10, 2003. Thus, Applicant respectfully traverses examiner's statement that priority does not extend back to 3 May 1994 and

respectfully submits that priority does extend to May 3, 1994, the filing date of U.S. 5,625,979.

#### Third Rejection Under 35 U.S.C. § 103(a)

In the Office Action, the Examiner also rejected claims 2, 8, 12-17, 19, 20, 22, 32, and 36 under 35 U.S.C. § 103(a) as being unpatentable over Weder et al. '398 and White in view of Landau (U.S. Patent No. 5,235,782).

Applicant respectfully traverses the rejections of claims 2, 8, 12-17, 19, 20, 22, 32, and 36 for the reasons provided above in the response to the rejection under § 103(a) over Weder '398 in view of White. Landau does not remedy the deficiencies of the combination of Weder '398 and White.

In view of the above, it is respectfully requested that the Examiner reconsider and withdraw the rejection of claims 2, 8, 12-17, 19, 20, 22, 32, and 36 under 35 U.S.C. § 103(a).

#### Fourth Rejection Under 35 U.S.C. § 103(a)

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Weder et al. (US 5,314,398) in view White (US 4,608,283) in further view of Clement (US 2,827,217).

Applicant respectfully traverses the rejection for the same reasons provided in the response to the rejection over Weder '398 and White. Clement



does not remedy the deficiencies of the combination of Weder '398 and White. In view of the above, applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a).

#### Fifth Rejection Under 35 U.S.C. § 103(a)

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Weder et al. (US 5,314,398) in view White (US 4,608,283) in further view of Landau (US 5,235,782) in further view of Clement (US 2,827,217).

Applicant respectfully traverses the rejection for the same reasons provided in the response to the rejection over Weder '398 and White. Clement and Landau do not remedy the deficiencies of the combination of Weder '398 and White.

Applicant respectfully traverses the rejection for the same reasons provided in the response to the rejection over Weder '398 and White. Clement does not remedy the deficiencies of the combination of Weder '398 and White. In view of the above, applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a).

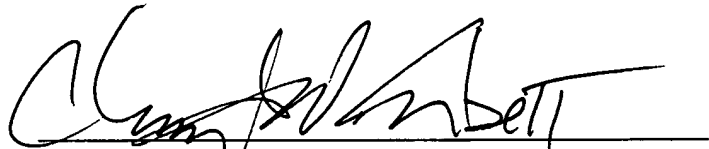
### Secondary References

The secondary references cited by the examiner, including Ruda, Waters and FR 2734988A1 have been reviewed. None of the cited references teach or render obvious the invention as presently claimed.

### **CONCLUSION**

In view of the above, applicant respectfully submits that such pending claims are now in a condition for allowance and requests issuance of a Notice of Allowance thereof.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher W. Corbett", is written over a horizontal line.

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